19 38

Department of

OFFICE Board of Revenue

STATION Madras.

Mis No. 424

10-2-38

Dated 10.2.38.

with briefs.

DESPATCHED

10 FEB 1938

Pages in the file

(SUBJECT.)

Suits - original. (South Kanara) Mangalore District

Munsif to enter. O.S. No 283/35 - Mangalore town

Kodialbail village - T.S. No. 1558/ wrong claim

Adverse decision - Appeal - Filing - Sanctioned

R-P118
G.60t

Very Urgent.
Ref. A3. No. 3565-35
3755-36.

South Kanara Collector's Office,
Mangalore, 29th January 1938.

From

M.R.Ry. Rao Bahadur M.V.Vellodi, Avl.,B.A.,
Collector of South Kanara.

To

The Secretary to the Board,
Land Revenue and Settlement, Madras.

Sir,

Suits - (South Kanara) - Mangalore District Munsif's Court - O.S.No.283/35 - Mangalore Town - Kodialbail village - T.S.1558/1 - warg claim - Adverse decision -

Ref:- B.P.Ms.No.4148 dated 1.11.1935.

Pt. 1 6 (M)

The above suit, the defence of which was sanctioned in the B.P.quoted above, has been decided adversely to Government. I enclose a certified copy of the judgment and a typed copy of the decree, in which the District Munsiff has not only given the declaration asked for by the Plaintiff, but also restrained the Government, by a permanent injunction from evicting the plaintiff and his family from the lands. He has further awarded to the plaintiff the costs of Rs.69-14-0 with interest.

(P)
pp 15-17 infra

p16 infra

2. The District Munsif's decision appears to have been based mainly on Exhibits A and B, relied upon by the plaintiff. The one is a mulgeni chit of 1867 and the other, a mortgage deed of 1896,-both executed by the plaintiff's ancestors. The plaintiff's contention is that both these documents mention the plot in question and describe it as belonging to his family, under item 5 of the Schedule in Ex. A and item 8 in Ex.B. Tl boundaries of the plot as described in the two documents are compared below:-

P14

19 38

Department of Revenue

OFFICE Board of Revenue

STATION Madras.

Mis No. 429

10-2-38

Dated 10.2.38

with Encls.

DESPATCHED

10 FEB 1938

Pay

Pages in the file

(SUBJECT.)

Suits - alienation - (South Kanara) Mangalore Dist.

Munsif is comet. S.No 282/2 - Ma[illegible] Kodialbail village - 1.S.No 155/1 - wrong claim

Adverse decision Appeal - Filing - Sanctioned

R.P 118
9.606

Very Urgent.
Ref. A3. No. 3565-35
3755-36.

South Kanara Collector's Office,
Mangalore, 29th January 1938.

From

M.R.Ry. Rao Bahadur M.V.Vellodi, Avl.,B.A.,
Collector of South Kanara.

To

The Secretary to the Board,
Land Revenue and Settlement, Madras.

Sir,

Suits - (South Kanara) - Mangalore District Munsif's Court - O.S.No.283/35 - Mangalore Town - Kodialbail village - T.S.1558/1 - warg claim - Adverse decision -

Ref:- B.P.Ms.No.4148 dated 1.11.1935.

The above suit, the defence of which was sanctioned in the B.P. quoted above, has been decided adversely to Government. I enclose a certified copy of the judgment and a typed copy of the decree, in which the District Munsiff has not only given the declaration asked for by the Plaintiff, but also restrained the Government, by a permanent injunction from evicting the plaintiff and his family from the lands. He has further awarded to the plaintiff the costs of Rs.69-14-0 with interest.

2. The District Munsif's decision appears to have been based mainly on Exhibits A and B relied upon by the plaintiff. The one is a mulgeni chit of 1867 and the other, a mortgage deed of 1896,-both executed by the plaintiff's ancestors. The plaintiff's contention is that both these documents mention the plot in question and describe it as belonging to his family, under item 5 of the Schedule in Ex. A and item 8 in Ex.B. The boundaries of the plot as described in the two documents are compared below:-

	Exhibit A (1867)	Exhibit B (1896)
North.	To the south of the trench through which water passes.	Shamsa's land.
East	To the west of the compound wall of Thome Prabhu's garden appertaining to Munda Pujari's house.	Land in the enjoyment of Juvam Pinto.
South	To the north of the wall adjoining the road leading to Kadri.	Public road.
West.	To the east of the wall belonging to this (plaintiff's predecessor's) warg.	Public road and Shamsa's land.

3) There is material difference between the two sets of boundaries, except perhaps in the case of the southern one, so much so that they do not seem to suggest that the plot mentioned in the one is identical with that described in the other. The survey of the village was made in 1891 and evidently, the change in the description of boundaries in the latter document of 1896 must have been made with a view to put forward a claim to the land. In any case, a perusal of the sketch submitted with this office Ref.A3. No.3565/35 dated 19.10.35 would show that the boundaries in neither of the two sets tally on the ground. In this connection, I also request a reference to para 5 of the report just quoted above As observed by the Government Pleader, the Revenue Inspector (P.W.1) admitted in,his cross-examination that the boundaries in Exhibit B correspond to those of the suit plot, but this admission was, evidently based on the existence of the roads on the south and the west. All the same, he did not admit that the boundaries mentioned in Exhibit A correspond with those of the plot in question - please see certified copy of the deposition of this witness. So long as there is nothing to show that the plot mentioned in Exhibit B was proved to be identical with that specified in Exhibit A, I think it doubtful if

Pl see sketch at p 19 of (M)

Sketch at p.19 of (M)

p 3 of (M)

pp 19-21 of (U)

the District Munsiff is justified in saying that this witness admitted that the boundaries of items 5 and 8 of the schedules in Exhibits A and B corresponded with S.No.24/9.

4. Even if for the sake of argument, it is held that the plots are identical with each other as well as with the suit plot, the documents do not show how the plaintiff's family derived the title over it, nor are they binding on Government as they were no party to the documents, which, after all, are only private documents. Another point which disproves the plaintiff's contention is that the Municipal tax receipts (Exhibit C series) and the property tax assessment list (Ex.D) relied upon by the plaintiff only show that the tax paid was not in respect of the suit land (T.S.No.1558/1) but in respect of T.S.No.1558/9. The Dt. Munsif's reference to Exhibit C series in furtherance of the plaintiff's contention cannot therefore be correct.

5. In para 6 of his judgment, the Dt. Munsiff says that D.Ws. 2 and 3 have made admissions supporting the ----- plaintiff's contentions that the shrine is managed by the plaintiff's family and that the property is in their possession No doubt, D.W.2 says that the Bhandaram is in the possession of Purdda and others, who are in the plaintiff's property, but the term 'Bhandaram' only means jewels and valuables belonging to the diety and not the shrine proper. It is customary that these valuables are, except on festive occasions kept in someone's safe custody and not left inside the shrine. In any case, the statement of D.W. 2 does not mean that the shrine is managed by the plaintiff's family or that the property is in their possession. I should think that the statement only supports the contention of Government that the shrine is worshipped by the depressed classes, as Purdda and others in whose custody the Bhandaram is kept are members of those classes. If really, the shrine belongs to the ---

plaintiff's family and is managed by them, the Bhandaram would never have been allowed to be in the custody of Purdda and others, but would have been kept in the plaintiff's house, as is customary in these parts. D.W. 3's statement that the plaintiff's family gets all the ceremonies ----- performed by their nominees Purdda and Sursa, appears to prove nothing damaging to Government. As already reported in --- para 7 of this office letter Ref.A3.No.3565-35 dated ---- 19.10.35, referred to above, the fact that such institutions exist on Government lands and are managed by private individuals cannot confer any title on them to ~~sena~~ such individuals.

pp 27-29 of (L)

p 47 (M)

6. In para 7 of the judgment, the District Munsif says that the evidence on behalf of the plaintiff shows that the plaintiff's family has been in undisturbed and continuous possession from time immemorial. All that the depositions of P.Ws. 2 and 3 show is that the plaintiffs have been in possession of the property. They do not give the age of such possession. It seems doubtful, therefore, if these statements prove adverse possession over the statutory period of 60 years as against Government. On the other hand, the fact remains that since the date of the original settlement, the land has continued as assessed waste or poramboke and never included in the plaintiff's holding. At that time, the practice was that all warg lands held on mulgeni were being registered not only in the name of the mulgar but also in that of the mulgenidar, in addition. The mulgenidar has therefore the right to get the land registered ... his name as mulgenidar. The plaintiff contends that the mere fact that his mulgar failed to object to the noninclusion of the plot in his holding cannot affect the plaintiff's rights,- he being only a tenant. As he had himself the right to objection, this contention cannot hold good.

p 4 of (P)

pp 11-17 of (U)

7. I enclose a copy of the Mangalore Government

Pleader's letter Ref.No. A. 50/38, dated 21-1-38, together with a copy of the draft appeal Memo prepared by him and slightly amended by me. The Government Pleader has raised a point that the Government have not been able to get at the original notices issued at the time of the Survey of the village. In this connection, I invite the attention of the Board to the letter R.O.C.No. R.K. 2583/36 dated 19-11-36 from the Assistant Director in charge of the Central Survey Office, Madras (copy enclosed), from which it is clear that the Act then in force did not provide for the service of individual notice. The absence of such notice cannot, therefore, help the plaintiff in this case. Apparently, the Dt. Munsif has not touched upon this point of want of notice in his judgment. The Dt. Munsif's decision in this case is opposed to the rulings of the High court, contained in B.P. No. 78 L.R. dated 13-5-1902 and that a matter of principle is involved in this case. The Government Pleader is however, of opinion that the chances of coming out successful in the appeal are remote and it must be submitted that the Revenue Inspector's evidence is rather damaging. I, therefore, request the orders of the Board as to whether an appeal should be filed in this case and if so, the draft appeal Memo can be adopted.

8. The judgment and decree were passed on 22-11-37. Certified copies were applied for on 23-11-37, and were ready on 18-1-38 and delivered to the Government Pleader on the same day. I received them on 21-1-1938. The Government Pleader states that the appeal time will expire on 15-2-1938. The papers detailed in the margin are enclosed.

1. Certified copy of the judgment.
2. Typed copy of the decree.
3. Copy of appeal Memo.
4. One file of certified copies of depositions of witnesses.
5. One file of Government Pleader's copies of exhibits.
6. Copy of the Government Pleader's letter.
7. Copy of the Survey Assistant Director's letter dated 19-11-36.

IN THE COURT OF THE DISTRICT JUDGE OF SOUTH KANARA.

A.S.No. /1938.

Between:-

The Province of Madras, represented by the Collector of South Kanara. Appellant.

and

Veeramma Respondent.

GROUNDS OF APPEAL.

1. The decree of the Lower Court is against Law the weight of evidence and the probabilities of the case.

2. The Lower Court ought to have held that plaintiff has failed to prove any title in the suit plot.

3. The claim of the plaintiff to the suit plot was based by her on its being part of warg No.10 as seen from Exhibits A, B and the plaint. But the Lower Court failed to see that neither S.No.24/9 as seen from the extract from the Settlement Register Ex.VI nor any of the surrounding plots formed part of warg No.10.

4. The Lower Court erred in thinking that the recitals in Exhibits A and B are in any way evidence against the Government who are not parties to the document.

5. The Lower Court ought to have held that there is no sufficient proof to show that Exhibits A and B include the suit plot. The evidence of P.W.1 who is an illiterate woman, and who has no personal knowledge of these documents has not much evidentiary value.

6. The Lower Court failed to see that the boundaries of the 5th set of properties in Exhibit A and the 8th set in Exhibit B are descrepant between themselves and do not conclusively go to show that the plot referred to therein as the suit plot.

7. The Lower Court ought to have held that the adjoining plots referred to in the said documents not having been identified as those existing in the locality, the plaintiff has failed to establish her title to the suit plot.

8. The Lower Court erred in thinking that D.W.1 identified the suit plot with reference to the boundaries in Exhibit A. pp19-21 ⑦

9. The Lower Court further ignored the fact that the alleged present mulgar, Mr. B. F. Lobo who is living in the town and who was summoned once in the suit was not examined in support of his title to the land.

10. The Lower Court ought to have held that the Settlement Register being a document that is duly published, and no objections having been raised to the entries therein, the plaintiff is now not entitled to put forward her claim to the suit plot contrary to the entries therein.

11. The Lower Court erred in drawing a distinction between the full owner and the mulgeni tenant as the names of both the landlord and the tenant were entered in the Settlement Register.

12. The Lower Court erred in thinking Exhibits C series nd D relate to the suit plot. They refer to T.S.No.1558/9 whereas the suit plot even according to the recitals in the plaint itself is T.S.No.1558/1.

13. The Lower Court ought to have held that the family of the plaintiff were never in possession of the suit plot and that the suit is bad on that account also.

14. The Lower Court failed to see that no close neighbour who is in a position to speak about the possession has been examined in this case. The evidence of P.Ws.2 and 3 from its very nature is vague in-conclusive and unreliable on the point.

15. The Lower Court ought to have held that the construction of the Bhutasthanam by the plaintiff's family for the worship of the Adi-dravidas is unbelievable. The plaintiff has not produced any licence of the Municipality for its construction and she has also not examined any Adi-dravida in support of the assertion.

16. The Lower Court erred in not accepting the evidence

of D.Ws. 2 and 3 to say that the Bhutasthanam was constructed by them.

17. The Lower Court erred in admitting Exhibit A in evidence as it is an irrelevent document inadmissible as against persons who are not parties thereto.

18. The Lower Court ought to have held that the suit is long time barred. The claimants to the suit plot ought to have come forward in response to the notices under the Survey and Boundaries Act as the time of the Survey in or about 1891 and they having failed to come within the statutory period are now barred from doing so.

19. The Lower Court failed to see that formerly mulgeni pattas were also issued and that the provisions of the Act in this case cannot be got over by alleging only a mulgeni tenancy.

20. The Lower Court further failed to see that the mulgeni tenant is only a person that claims under the landlord and has no title apart from him.

South Kanara Collector's Office,
Mangalore, dated 27 - 1 - 1938.

For Collector.
31.1.38

31.1.38.

Letter-from the Government Pleader, Mangalore.
To-the Collector of South Kanara.
Dated-Mangalore, 21.1.1938.
No.-Ref.No.A-50/38.

******

Suits - Mangalore - District Munsif's Court - O.S.283/35 - Assignment - Kodialbail village - R.S.24/9 warg claim.

Reference: Your A3.No.3565-35, dated 9.12.1937 and my 3755-36 letter A.618/37, dated 22.11.1937.

******

I am herewith forwarding certified copies of the judgment, decree and depositions in O.S.283/35 on the file of the District Munsif of Mangalore. The suit was for a declaration that the plaint mentioned properties are of the mulgeni right of the plaintiff's family. The properties in question are 96 cents of waste land registered as poramboke and upon a portion of which there is a Bhutasthanam worshipped by Adi-dravidas. The ------- plaintiffs mainly rely upon Exhibits and B, which are documents of a very old date to show that this plot is mentioned by ------ boundaries in the mulgeni deed granted to them and that they --- have subsequently mortgaged it as theirs. Though the Government is not a party to the said documents, they are admissible in --- evidence as being transactions in which the plaintiffs claimed the property as theirs. On the question of the identification of the properties, the Revenue Inspector, Mr. T.M. D'Sa during the course of his Cross-examination has admitted that the ------ boundaries in Exhibit B correspond to those of the suit plot. Our attempt to show that the plaintiffs family has not been in possession has failed. The Adi-dravidas who were examined on our behalf admit that the Bhutasthanam is in the possession of the tenants of the plaintiff's family, and that they are acting under the directions of the plaintiff's family

2. Then there is the only other technical plea of limitation based upon the provisions of the survey and boundaries Act. In the present case we have not been able to get at the original

notices issued. We are therefore not in a position to say whether the plaintiff's family had any notice. Any substantial rights of a person in any property cannot be taken away without notice to him. So, even if we presume that the landlord was duly served, in the absence of definite evidence such notice cannot be fixed on the mulgeni tenant who has a distinct interest in the properties.

3. Under the circumstances, I am of opinion that the chances of coming out successful in the appeal are remote. I have set out the possible grounds that can be urged in appeal in the appeal memo that I have enclosed herewith.

4. The time for appeal expires on 15.2.1938. I have enclosed the office copies of the exhibits as also the files sent to me.

(True Copy)

For Collector.

31-1-38.

Letter-from M.R.Ry. Rao Bahadur K. N. Narasimha Acharya, Avl., B.A., Assistant Director in Charge of Central Survey Office, Triplicane, Madras.
To-the Collector of South Kanara, Mangalore.
Dated-Madras, 19.11.1936.
No.-R.O.C.No.B K.2583/36.

******

Suit - Kodialbail village - Notice.

******

Reference; Your letter No.Ref.A.B.3565-35/3755-36, dated 12.11.1936.

The original survey of Kodialbail village referred to was not done in 1901 but in 1891 under the provisions of Act XXVIII of 1860 and this Act does not provide for the service of Individual notices.

2. The village is included in the Municipality and it was surveyed under the Town Survey system when the Municipality was surveyed. Probably this survey is referred to as of 1901, in your letter.

3. The file of correspondence received from the Officer in Charge No.I Survey Party, Salem, is returned herewith.

(True Copy)

For Collector.

In the Court of the Dt. Munsif of Mangalore.

Present: M.R.Ry. M. Venkatappa Garu, B.A., B.L.,

Additional District Munsif.

Monday the 22nd day of November, 1937.

Original Suit No. 283 of 1935.

Between:

1. Ganapalva (since dead)
2. Veeramma (Supplemental) niece of the deceased 1st plaintiff and resides in Kodialbail. of Mangalore Town. — Plaintiffs.

and

The Secretary of State for India in Council — Defendant.

Plaintiff sues for a declaration that R.S.No.24/9 of Kodialbail village belongs to Plaintiffs family on mulgeni right and that the said family is entitled to continue in exclusive possession and enjoyment of the same without any interference by the Defendant and for a permanent injunction restraining the Defendant from interfering with their possession.

Relief valued at half of 10 times the assessment on the property i.e. 1/2 (10 x 15 annas) ..	Rs. 4-11-0	Rs.44-11-0
plus the value of building thereon viz. Rs. 40/-		
Total		Rs.44-11-0

The cause of action for the suit arose on 6-10-34 when the Collector refused to admit the Plaintiffs title and since December 1934 when Plaintiff was called upon not to interfere with the plot in Kodialbail village of Mangalore Town.

Decree:- This suit coming on this day for final disposal before me in the presence of Messrs. B. R. Vyasaraya Char, Advocate and B. Nagesh Rao, Pleader for Plaintiff of Mr. M. Annappa Kamath, Pleader for the Government Pleader for Defendant this court doth order and declare that the plot R.S.No. 24/9 of Kodialbail village described herebelow belongs to the Plaintiffs family on mulgeni right and that the said family is entitled to continue in exclusive possession and enjoyment thereof without any disturbance or interference by the Defendant.

It is further ordered and decreed that the Defendant is hereby permanently restrained from taking any coercive ---- proceedings against Plaintiff and his family to evict them from the same and that Defendant do pay Plaintiff Rs. 69-14-0 towards costs of suit with interest thereon at 6% per annum from this date till date of payment.

Description of the property.

(as given in the plaint)

ದಕ್ಷಿಣ ಕಂಬದ್ದಿಂದ ಪಶ್ಚಿಮಕ್ಕೆ ಮೂಂಗಳೂರು ಸರ್ವೆ ವಿಭಾಗದ ಸ್ಕೂಲಿಂಗ ಮಂಗಳೂರು ತಾಲ್ಲೂಕು ಬಿಯಮೂಲ ಪೈಲು ಅಲ್ಲಿಂದ ವಾಯವ್ಯಕ್ಕೆ ಸ್ಕೂಲಿಂಗ ಕಿವಿಸ್ಸು ಸರ್ವೆ ನಂಬ್ರ 24/9, ಪವನ ಸರ್ವೆ ನಂಬ್ರ 1558/1 ಮೂಂಜಿ ಸ್ಕೂಲಿಂಗ ಪ್ಲಾಟು 418/18 ನೆಂಬ್ರ 96ರ ವಿಸ್ತೀರ್ಣ ರೂಪ್ಯಾ 0-15-0 ಮತ್ತು ಇದರಲ್ಲಿರುವ ಪಕ್ಕಿಂಗ ಗಿರುವ ಕಟ್ಟಡ.

Cost of suit.

	Plaintiff's costs. Rs. a. p.	Defendant costs. Rs. a. p.
1. Stamp for plaint	5. 0. 0	0. 0. 0
2. " for vakalath	1. 0. 0	0. 0. 0
3. " Exhibits	2. 0. 0	0. 8. 0
4. " petitions	0. 4. 0	1. 8. 0
5. Process fees	5.12. 0	5. 0. 0
6. Witness Batta	29.14. 0	18. 6. 0
7. Pleader's fee	25. 0. 0	25. 0. 0 (allowable).
8. Process writing	1. 0. 0	1. 0. 0
Total ...	69.14. 0	51. 6. 0

Given under my hand and the seal of the Court this 22nd day of November, 1937.

Sd/- M. Venkatappa,
Addl. Dt. Munsif.

Note: The parties should apply as soon as possible for the return or all Exhibits which they may wish to preserve as the record will be liable to be destroyed after three years or (one-record-w) after six years from this date according to the

nature of the Exhibit under the rules for the destruction of records.

(True copy on 4 sheets)

Sd/- x x x
Superintendent.

(True copy)

For Collector. 31.1.39

31.1.39.

Suits - Original - (S. Kanara) - Mangalore District Munsif's Court - O. S. No. 283/35 - Mangalore town - Kodialbail village - T. S. No. 1558/1 - Warg claim - Adverse decision - Appeal - Unnecessary.

pp 1-5 Cf

Read: From the Collector of S. Kanara Ref. A. 3. No. 356/35 3755-38 dated 29. 1. 38. — &.

Recd. (Nis.) 396 dt 5.2.38

The Board Considers that no appeal need be filed against the decision of the District Munsif of Mangalore in O. S. No. 283/35.

(f.o.) Ho 1/2/38

Issue recd in S.R.

Cy sbr 1/2/38

Issued in S.R.

Dft. 5.2.38

5.2.38

The Collector of S. Kanara with certified Copy of Judgment (P) Certified Copies of depositions (T) of witnesses and Court Pleader's Copies of Exhibits (N).

Kept in C. R. S.

C.F. 32.

VERY URGENT.

21

REVENUE DEPARTMENT

4

In reply, please quote number, date and short title.*

Received *Registered* 3712

From (Name) M. R. Ry. Rao Bahadur M. V. Vellodi, Avgl, B.A.,

(Designation) Collector of South Kanara

Post Box ....., (Station) Camp: Hosdrug,

Telegraphic Address .....

To

The Secretary to the Commissioner of
Land Revenue & Revenue Settlement,
Madras.

Ref. A3 *No.* 3565-35 / 3755-36, *dated* 4th Febry. *19* 38

Sir,

ENCLOSURES.....

SPARE COPIES

p21 of (M)

Suits--(South Kanara)--Mangalore District Munsiff's Court--O. S. No. 283/35--Mangalore Town --Kodialbail village--T. S. No. 1558/1--warg claim --adverse decision.

Ref:- B. P. Ms. No. 4148 dated 1st November 1935.

---

pp 1-5 of (N)

pp 3-4 of

In continuation of my letter Ref. A3 No. 3565-35/3755-36 dated 29th January 1938, I enclose a copy of the letter dated 29th January 1938 received by the Government Pleader, Mangalore, from M. R. Ry. B. Nagesh Rao, Avgl, B.A.B.L. Vakil for the plaintiff in the matter of appeal. The plaintiff's proposal seems rather curious. Apparently she is not sure of her success in case the Government take the matter to a superior court in appeal.

M. V. Vellodi

Collector.

B. Nagesh Rao,
B.A. B.L.

Vakil

WITHOUT PREJUDICE.

M a n g a l o r e,
South Kanara.

29th January 1938.

To

The Government Pleader,

M a n g a l o r e.

In re: O. S. 283/1935 on the file of the District Munsiff of Mangalore.

(1) K. Ganapalva (Decd)
(2) Veeramma — Plaintiffs.

and

The Secretary of State for India in Council. — Defendant.

S i r,

The Plaintiffs above my clients, who are poor agriculturists had even prayed for an assignment of the plaint plot, if the Collector, would not admit the warg claim. That prayer, which was made without prejudice, having been rejected by the Collector, my clients were obliged to file the above suit.

The claim of my clients, had been upheld, and the suit had been decreed with costs.

My clients instruct me now, to forward the following proposal, for kind acceptance by the Government, i.e. my clients agree to forego, the costs of the suit awarded by the decree, if the Government, in recognition of the warg claim, does not press the said matter by way of appeal or otherwise.

This offer is made, without prejudice and to avoid further trouble and risk.

I hope the matter will receive sympathetic consi-

deration. My client,if so desired, will execute any necessary receipt for costs.

Yours sincerely,
Sd/ Bola Nagesh Rao.

The above offer is made at my instance and I am agreeable to it.

Left hand thumb impression of Veeramma
Wit: Sd/, K. Devanna Shetty.

Sd
4.2.38

LCA HJ 25

Suits - Original - (S. Kanara) - Mangalore district Munsif's Court - O.S. No. 283/35 - Mangalore town - Kodialbail village - T.S. No. 1558/1 - Warg claim - Adverse decision - Appeal - Filing Sanctioned.

pp 1-5 Cf 7 (N) Read: From the Collector of S. Kanara Rf. A.3. No. 3565-35 / 3753-36 dated 29.1.38 ——— Q.

p 1 Cf — From the Collector of S Kanara Rf. A.3 No. 3565-35 / 3755-36 D 4.2.38

Rebn (Nis.) 429 D 10.2.38

The Board sanctions the filing of an appeal and approves the draft grounds of appeal submitted by the Collector with his letter first read above

pp 7-9 Cf 9 (N)

10.2.38

10.2.38

10/2/38

(f.o)

To the Collector of S. Kanara.

with certified Copy of Judgment, certified Copies of depositions of witnesses and one file of Govt. Pleader's Copies of exhibits.

10/2/38

it is with the ~~Collector~~ Board

10/2/38

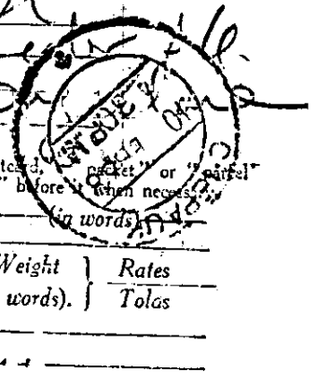
No. 180

For list of articles see reverse.

Stamps affixed except in case of uninsured letters not exceeding 2½ tolas or one ounce in weight or on which no acknowledgment is due. Rs. 0 As. 5

Date-stamp.

Received a registered * addressed to



* Write here "letter," "postcard," "packet" or "parcel" with the word "Insured" before it when necessary.

Initials of Receiving Officer.

If insured:

Insured for Rs. (in figures) *(in words)*

Insurance fee Rs. *As.* *(in words).*

Weight | *Rates*

Tolas

Name and address of sender.

M2
J.S.(F)
As.(sett)

vide no.
Appeal time expires on 15.2.38

Suits - Original - (S.Kanara) - Mangalore district Munsif's Court - O.S. No. 283/35 - Mangalore town - Kodialbail village - T.S. No. 1558/1 -- Warg claim - Adverse decision - Appeal - Filing.

G. 606/38.

S.(sett).

Please see the letter from the Collector of S.Kanara at pp. 1-5 Cf.

2. The facts of the case will be found at pp 1-6 of B.P. No. 4148 of 1.11.35. (M) Even at the time when the Collector sought for the Board's sanction to defend the suit, the then Govt. Pleader considered that the Plaintiff had a fairly good case. The present Govt. Pleader also considers that the chances of conducting successful the appeal are remote for the reasons stated in paragraphs 1 and 2 of his letter at pp. 11-12 Cf. The Collector however seems to favour the filing of an appeal mainly on the following grounds:

-11-13 of (M)

+ 3 at M 1-2 Cf

(1) The boundaries of the suit plot specified in Exhibits A and B do not agree.

a 3 at p2 Cf

(2) The Revenue Inspector did not admit that the boundaries mentioned in Exhibit A corresponded with the suit plot and that

herefore the district Munsif is not justified in his observation that the R.D. admitted that the boundaries of items 5 and 8 of the Schedules in Exhibits A. and B. Corresponded with S. No. 24/9. (Old Survey).

including sentence at p 3 of (P)

(3) The Municipal tax receipts and the property tax assessment list relate to T.S. No. 1558/9 and not to 1558/1 (the suit plot in question)

para 4 at p 3 of

(4) The district Munsif's decision is opposed to the ruling of the High Court contained in RSP No. 78 of R.D. 13.5.1903.

portion marked B at p 5 of Vol. post up (P) p 4 of (P)

This is a very old ruling. It may have been superseded subsequently. GL

In paragraph 7 of his judgment district Munsif says that the evidence behalf of the Plaintiff shows that the plaintiff's family has been in undisturbed & continuous possession of the suit plot from time immemorial. The Collector never doubts whether the statements the Plaintiff's witnesses prove adverse possession over the statutory period of years as against the Govt.

para 6 at p 4 of

It is submitted that, but for a entry in the Settlement Register, the Collector does not say whether the Govt. have any other material evidence to show that the land is Govt. property.

For orders whether an appeal should be filed and if so whether the draft

Pp 7-9 4. grounds of appeal may be approved

3.2.38

3.2.38

The odds seem to be against the Govt. Area is desirable not to file an appeal in this c

3/2/38

JS(F) 4/2

I am not quite sure. Most of the D.M's argument seems unsound; however perhaps it is not worth risking an appeal 5/2

Joint Secy.

As. (Gelt)

As. (Gelt)

Draft submitted.

5.2.38

5.2.38

5/2/38

J.S.(F)
A.S.(Sett)

Suits - Original - (S. Kanara) - Mangalore District Munsiff's Court - O.S. No. 283/35 - Mangalore town - Kodialbail village - T.S. No. 1558/1 - Warg Claim - Adverse decision - Appeal.

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G. 712/38.

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p 1 Cf.

A.S. (Sett)

Please see the letter from the Collector of S. Kanara at p. 1 Cf.

2/. The Board has already decided that it is not worth risking an appeal. Orders have not however been despatched and are withheld owing to the receipt of the present letter. Should the Plaintiffs now agree to forego the costs, the Collector may perhaps be asked to ~~Cancel~~ accept the Compromise. If this is accepted ~~Draft orders~~. the proceedings at p 19/of (N) may be suitably modified and issued.

p Encl of (N)

p 3 Cf

This may be done
dd
9/2/38.

Dr.
9.2.38

- not quite clear to me knowledge of this suggestion. We have decided rightly a draft not to appeal. Orders 9/2-38 We to accept payment for drop appeal we intended to do in any case. I think it might be more dignified to let the orders issue.

For orders.

dd
9/2/38

J.S.(F)

N. 9/2

N.

I think there is something suspicious about the desire to get the wrong claim recognised - might pave an awkward precedent if we let it go unchallenged. I therefore withdraw orders in [N] (of which I had some doubt at the time) Let the appeal go in

Draft of draft at mem 10 2 38

A.S. (sltt)

Draft submitted.

B.P. No. 396 D. 5.2.38 enters [N] A.S. (sltt)

ie the numbering book may be cancelled and a separate number given for the proceedings.

10.2.38.

10.2.38.